

ACT NO. V OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd March, 1898.)

An Act to consolidate and amend the law relating to Criminal Procedure.

WHEREAS it is expedient to consolidate and amend the law relating to Criminal Procedure; It is hereby enacted as follows:—

PART I.
PRELIMINARY.

CHAPTER I.

1. (1) This Act may be called the Code of Criminal Procedure, 1898; and it shall come into force on the first day of July, 1898. Short title. Commence-
ment.(2) It extends to the whole of British India; but, Extent. in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force, or shall apply to—

- (a) the Commissioners of Police in the towns of Calcutta, Madras and Bombay, or the police in the towns of Calcutta and Bombay;
- (b) heads of villages in the Presidency of Fort St. George; or
- (c) village police-officers in the Presidency of Bombay:

(Part I.—Preliminary. Chapter I.—Sects. 2-3.)

Provided that the Local Government may, if it thinks fit, with the sanction of the Governor General in Council, by notification in the official Gazette, extend any of the provisions of this Code, with any necessary modifications, to such excepted persons.

Repeal of
enactments.

2. (1) On and from the first day of July, 1898, the enactments mentioned in the first schedule shall be repealed to the extent specified in the fourth column thereof, but not so as to restore any jurisdiction or form of procedure not then existing or followed, or to render unlawful the continuance of any confinement which is then lawful.

Notifications,
etc., under
repealed
Acts.

(2) All notifications published, proclamations issued, powers conferred, forms prescribed, local limits defined, sentences passed and orders, rules and appointments made, under any enactment hereby repealed, or under any enactment repealed by any such enactment, and which are in force immediately before the first day of July, 1898, shall be deemed to have been respectively published, issued, conferred, prescribed, defined, passed and made under the corresponding section of this Code.

Pending
cases.

(3) The provisions of this Code shall apply to all proceedings instituted after the commencement of this Code, and, so far as may be, to all cases pending in any Criminal Court when this Code comes into force.

References
to Code of
Criminal
Procedure
and other
repealed
enactments.

3. (1) In every enactment passed before this Code comes into force, in which reference is made to, or to any Chapter or section of, the Code of Criminal Procedure, Act XXV of 1861 or Act X of 1872, or Act X of 1882, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding Chapter or section.

Expressions
in former
Acts.

(2) In every enactment passed before this Code comes into force the expressions "Officer exercising (or 'having') the powers (or 'the full powers') of a

Magistrate,"

(Part I.—Preliminary. Chapter I.—Sec. 4.)

Magistrate," "Subordinate Magistrate, first class," and "Subordinate Magistrate, second class," shall respectively be deemed to mean "Magistrate of the first class," "Magistrate of the second class" and "Magistrate of the third class," the expression "Magistrate of a division of a district" shall be deemed to mean "Subdivisional Magistrate," the expression "Magistrate of the district" shall be deemed to mean "District Magistrate," the expression "Magistrate of Police" shall be deemed to mean "Presidency Magistrate," and the expression "Joint Sessions Judge" shall mean "Additional Sessions Judge."

4. (1) In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context :—

- (a) "Advocate General" includes also a Government Advocate, or, where there is no Advocate General or Government Advocate, such officer as the Local Government may, from time to time, appoint in this behalf:
- (b) "bailable offence" means an offence shewn as bailable in the second schedule, or which is made bailable by any other law for the time being in force; and "non-bailable offence" means any other offence:
- (c) "charge" includes any head of charge when the charge contains more heads than one:
- (d) "Chief Justice" includes also the Chief Judge of the Chief Court of the Punjab and the Recorder of Rangoon:
- (e) "Clerk of the Crown" includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the Crown:
- (f) "cognizable offence" means an offence for, and "cognizable case" means a case in, which a police-officer, within or without the

presidency-towns,

(Part I.—Preliminary. Chapter I.—Sec. 4.)

presidency-towns, may, in accordance with the second schedule, or under any law for the time being in force, arrest without warrant :

“Commis-
sioner of
Police.”

“Complaint.”

“European
British
subject.”

“High
Court.”

“Inquiry.”

- (g) “Commissioner of Police” includes a Deputy Commissioner of Police :
- (h) “complaint” means the allegation made orally or in writing to a Magistrate, with a view to his taking action, under this Code, that some person, whether known or unknown, has committed an offence, but it does not include the report of a police-officer :
- (i) “European British subject” means—
 - (i) any subject of Her Majesty born, naturalised or domiciled in the United Kingdom of Great Britain and Ireland or in any of the European, American or Australian Colonies or Possessions of Her Majesty, or in the Colony of New Zealand or in the Colony of the Cape of Good Hope or Natal ;
 - (ii) any child or grand-child of any such person by legitimate descent :
- (j) “High Court” means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the High Courts of Judicature at Fort William, Madras and Bombay, the High Court of Judicature for the North-Western Provinces, the Chief Court of the Punjab and the Court of the Recorder of Rangoon : in other cases “High Court” means the highest Court of criminal appeal or revision for any local area ; or, where no such Court is established under any law for the time being in force, such officer as the Governor General in Council may appoint in this behalf :
- (k) “inquiry” includes every inquiry other than

than a trial conducted under this Code by a Magistrate or Court:

- (l) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police-officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf;
- (m) "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath;
- (n) "non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a police-officer, within or without a presidency-town, may not arrest without a warrant;
- (o) "offence" means any act or omission made punishable by any law for the time being in force; it also includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871;
- (p) "officer in charge of a police-station" includes, when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the police-officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the Local Government so directs, any other police-officer so present;
- (q) "place" includes also a house, building, tent and vessel;
- (r) "pleader," used with reference to any proceeding in any Court, means a pleader authorised under any law for the time being in force to practise in such Court, and includes (1) an advocate, a *vakil* and an attorney of a High Court so authorised, and (2) any *mukhtar* or other person appointed

with

(Part I.—Preliminary. Chapter I.—Sec. 5.)

with the permission of the Court to act in such proceeding :

"Police-station."

"Public Prosecutor."

"Subdivision."

"Summons-case."

"Warrant-case."

(s) "police-station" means any post or place declared, generally or specially, by the Local Government to be a police-station, and includes any local area specified by the Local Government in this behalf :

(t) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor and any person conducting a prosecution on behalf of Her Majesty in any High Court in the exercise of its original criminal jurisdiction :

(u) "subdivision" means a subdivision of a district :

(v) "summons-case" means a case relating to an offence, and not being a warrant-case : and

(w) "warrant-case" means a case relating to an offence punishable with death, transportation or imprisonment for a term exceeding six months.

(2) Words which refer to acts done, extend also to illegal omissions ; and

all words and expressions used herein and defined in the Indian Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code.

5. (1) All offences under the Indian Penal Code XLV of 1860. shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

(2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

Words referring to acts.
Words to have same meaning as in Indian Penal Code.

Trial of offences under Penal Code.

Trial of offences against other laws.

PART II.

(*Part II.—Constitution and Powers of Criminal Courts and Offices. Chapter II.—Of the Constitution of Criminal Courts and Offices.—Sects. 6-7.*)

PART II.

CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

CHAPTER II.

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

A.—Classes of Criminal Courts.

6. Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in British India, namely :—

- I.—Courts of Session :
- II.—Presidency Magistrates :
- III.—Magistrates of the first class :
- IV.—Magistrates of the second class :
- V.—Magistrates of the third class.

B.—Territorial Divisions.

7. (1) Every province (excluding the presidency-
towns) shall be a sessions division, or shall consist of sessions divisions and districts: and every sessions division shall, for the purposes of this Code, be a district or consist of districts.

(2) The Local Government may alter the limits, or, with the previous sanction of the Governor General in Council, the number, of such divisions and districts.

(3) The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.

(4) Every presidency-town shall, for the purposes of this Code, be deemed to be a district.

8. (1) The